

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF NEW YORK

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4 UNITED STATES OF AMERICA,

5 -versus-

08-CR-77

6 DEAN SACCO.
7 -----

8 TRANSCRIPT OF SENTENCING PROCEEDINGS

9 held in and for the United States District Court,
10 Northern District of New York, at the Federal Building and
11 Courthouse, 15 Henry Street, Binghamton, New York, on
12 WEDNESDAY, December 3, 2008, before the HON. THOMAS J. McAVOY,
13 Senior United States District Court Judge, PRESIDING.

14
15 APPEARANCES:

16 FOR THE GOVERNMENT:

17 UNITED STATES ATTORNEY'S OFFICE

18 BY: MIROSLAV LOVRIC, AUSA

19 Binghamton, New York

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21
22 FOR THE DEFENDANT SACCO:

23 KELLY FISCHER, ESQ.

24 Binghamton, New York
25

1 THE CLERK: United States of America versus
2 Dean Sacco, 2008-CR-77. Please come forward and state
3 appearances for the record.

4 MR. LOVRIC: Miroslav Lovric for the
5 government. Good morning, your Honor.

6 THE COURT: Good morning, again, Mr. Lovric.

7 MR. FISCHER: Good morning, your Honor. Kelly
8 Fischer for Mr. Sacco.

9 THE COURT: Morning, Mr. Fischer; morning,
10 Mr. Sacco.

11 THE DEFENDANT: Good morning.

12 THE COURT: All right. The Court has received
13 and reviewed materials submitted, memoranda from the
14 government, from the defendant, the presentence investigation
15 report prepared by the probation department as amended and
16 revised, some information about the forfeiture count in the
17 indictment which I think the government plans to move to
18 dismiss after the sentencing.

19 Mr. Fischer, have you had an opportunity to
20 review with Mr. Sacco the contents of the presentence
21 investigation report?

22 MR. FISCHER: Yes, your Honor.

23 THE COURT: Mr. Sacco, did you read over the
24 presentence investigation report?

25 THE DEFENDANT: Yes, I did.

1 THE COURT: Did you talk over the contents of
2 that report with Mr. Fischer?

3 THE DEFENDANT: Yes, we did.

4 THE COURT: Okay. Is there anything in that
5 report, Mr. Fischer? You haven't filed any objections to the
6 report, you filed a sentencing memoranda. Is there anything
7 about the content of the report you'd like to discuss with
8 the Court now?

9 MR. FISCHER: No, your Honor. Any concerns
10 that I would have would not change the ultimate guideline
11 recommendation and so I've discussed it with Mr. Sacco and
12 there are no objections to the report at this point.

13 THE COURT: All right. How about you, Mr.
14 Sacco?

15 THE DEFENDANT: Well, there was one thing that
16 the guy that did the PSI added, he embellished a little bit.
17 He in his report claimed that I threatened Miss O'Connor with
18 a knife and said that while she was bleeding I would -- and
19 dying, I would rape her.

20 THE COURT: Well, you threatened to rape her
21 and kill her while you were raping her as I recall the
22 testimony.

23 THE DEFENDANT: Well, I've never had a harsh
24 word with the young lady, but my point is that Miss O'Connor
25 never made that statement that I used a knife and that while

1 she was bleeding -- he put those in the report. So you asked
2 me if I had any problems. Yes, I have a problem with his
3 embellishing to make it look like I was even worse than what
4 Miss O'Connor lied about. Thank you.

5 THE COURT: Well, there isn't much that can
6 make you look any worse. The Court is going to adopt the
7 factual contents of the presentence report by a preponderance
8 of the evidence.

9 What would you like to say, Mr. Fischer, on
10 behalf of Mr. Sacco before I sentence him?

11 MR. FISCHER: Thank you, your Honor. First of
12 all, Judge, I don't know if it's been said on the record yet
13 but I want to make it clear that throughout the course of
14 this, up to the point where we went to trial, I solicited
15 from the government an offer to try to resolve this matter
16 without having to go to trial. There was room on our part to
17 try to resolve this consensually. No offer was made,
18 nothing. The only offer that was made, plead guilty to the
19 counts in the indictment which would place Mr. Sacco squarely
20 where he is right now anyway. So, in my opinion, from my
21 perspective, that was really no offer at all, no choice at
22 all for Mr. Sacco and I want to make it clear he was not the
23 one that pushed this matter through the trial process,
24 compelled the witnesses to come forward. There was a
25 willingness on his part to resolve this matter without that.

1 I think that's important for sentencing purposes because part
2 of the consideration is what the witnesses had to endure,
3 particularly what Shannon O'Connor had to do. She had to
4 come and testify and be cross-examined. I understand that's
5 a component, I'm concerned about it and I raise it for that
6 reason.

7 And, Judge, I'm going to be very concise.
8 Really the only other thing I can say then is this: It's
9 quite clear I think to anybody who is even remotely familiar
10 with the facts that occurred, that were presented during the
11 course of this trial, what Mr. Sacco's background is. And I
12 know for sentencing guideline ranges it's probably not even
13 going to have an effect but I think for, in a general sense,
14 sentencing issues, it's a consideration that should be taken
15 into account. Mr. Sacco acknowledged a long time ago before
16 these events occurred that he had a problem. He sought
17 treatment for it. He sought treatment when he was
18 incarcerated, was given a recommendation to write a book and
19 that would help him solve his problem, so he did that. He
20 took that advice, he followed up with that. He was unable to
21 effectively deal with the problem that he knew he lived with
22 and it continues today and put him exactly where he stands
23 right now. It is that very problem that he raised years ago
24 that puts him where he is now. He acknowledges that he has
25 some deep emotional history and difficulties that place him

1 where he is today. I request recommendation from the Court
2 that he be treated for that problem because it is a problem.
3 It would have a beneficial impact on him, I think it would
4 have a beneficial impact for anybody with whom he would have
5 contact in the future.

6 I also have concerns, your Honor, that I need
7 to put on the table that are related to about how he will be
8 treated in prison. Given his age, his history, and these
9 criminal convictions, he's at risk. He's at risk physically
10 of -- frankly, he's at risk of seriously bodily harm. He
11 could be killed, and I understand the government does what it
12 can to prevent that. Given this history, this is a
13 legitimate and serious concern that he has and I share it
14 with him. I think a recommendation for treatment would
15 potentially place him in a safer situation than a sentence
16 without that recommendation and so I ask the Court on those
17 bases to impose its sentence and to make a recommendation
18 that he receive treatment rather than just pure
19 incarceration.

20 THE COURT: Would you also seek a
21 recommendation from the Court that I request the Bureau of
22 Prisons to place him in administrative segregation?

23 MR. FISCHER: I believe, your Honor, that that
24 is appropriate, yes.

25 THE COURT: Okay. Mr. Lovric, would you like

1 to be heard?

2 MR. LOVRIC: Yes, Judge. Judge, standing
3 before this Court is the ultimate sexual predator, Mr. Dean
4 Sacco. Everything that we know, and I underscore what we
5 know, about Dean Sacco is that he is nothing short of a
6 sexual predator, a sexual psychopath, a sexual feign who has
7 prayed on children and in my estimation would continue to
8 pray on children were he ever to be released on the streets.
9 Mr. Sacco in his own words in his book describes how at a
10 very early young age he sexually molested his own sister. He
11 sexually molested her friends. Mallory Monagan testified how
12 he sexually assaulted her. Mr. Sacco in his criminal history
13 has displayed a violent tendency and a violent nature. When
14 I first learned of his criminal conviction in New Jersey,
15 even in my 20 some years as a prosecutor I found it quite
16 stunning. He kidnapped and highjacked a bus with 44 people
17 on it, held them at gun point, robbed them and then but for
18 the heroic efforts of a bus driver, may have even physically
19 hurt someone. And the bus driver ends up shooting him twice.
20 He is just an absolute out of control, and I don't want to
21 call him a human being, because he's not a human being, but
22 he's absolutely just out of control in every sense of the
23 word. He has been a danger to society and he will always be
24 a danger to society. My amazement with Mr. Sacco is that
25 there aren't more victims in his trail of rampage. It is

1 unfortunate and horrific what Shannon O'Connor went through
2 at the hands of Dean Sacco and what Mallory Monagan
3 experienced and what Mr. Sacco's sister and her friends and
4 all the other girls that he broke into their houses and
5 entertained himself, but it is just amazing that there aren't
6 more victims out there because he is absolutely out of
7 control and I take dispute with defendant claiming that he
8 acknowledges his problem. He has acknowledged absolutely
9 nothing. Nothing. He has never accepted responsibility for
10 his actions here. He has never apologized to Shannon
11 O'Connor, to this Court. He acknowledges nothing and that's
12 because Mr. Sacco is not capable of acknowledging and seeing
13 how he has harmed anyone else outside of his own little self.
14 So when he says he acknowledges, he acknowledges nothing.
15 He's accepted no responsibility. He pled guilty in state
16 court only after he was convicted in federal court and only
17 then he acknowledged that there were sexual contact with
18 Shannon O'Connor. I read the plea minutes and Mr. Sacco in
19 his ever famous twisting of words brings himself to say that
20 there was contact between the victim, Shannon, and his penis
21 in this matter but fails to go into any kind of explicit
22 detail about how he committed that sexual act. And so he
23 essentially pled guilty in state court because they offered
24 him a very, very sweet deal to plead guilty and I'm not here
25 to judge that because I am thankful for the fact the victim

1 did not have to testify in state court as well. But for this
2 defendant to stand before this Court and somehow try to say
3 that he has acknowledged his actions and conduct, I would
4 quite frankly say, Judge, stretches the imagination of
5 candor.

6 There was no plea offer in this case.
7 Mr. Sacco deserves no plea offer. He deserves no
8 consideration. We, the government, were not going to give
9 him the opportunity to get out of these charges and to be
10 allowed to go and molest other children. I think he somehow
11 may feel he was entitled to a plea deal or a plea offer.
12 There was none forthcoming because he deserves nothing. He
13 deserves no consideration. When we look at why these
14 statutes are in place, they're in place to put people like
15 Mr. Sacco away forever so they cannot roam the streets of
16 society and harm children and that is exactly what I believe
17 this Court should do. This Court should send him away for
18 the rest of his life so he can never continue to be a danger.

19 THE COURT: Mr. Sacco, would you like to say
20 anything before I sentence you, sir?

21 THE DEFENDANT: Yes, Judge. First of all, I'd
22 like to let you know I have a statement here that's going to
23 take me a couple of minutes but -- Judge, I'm embarrassed and
24 I'm ashamed when I stand in front of you and you think that
25 I'm the kind of guy that would have hurt her in any way,

1 shape or form. I'm ashamed to stand in front of you for you
2 to think I might have even raised my voice at her or struck
3 her or did any of those things to her because Shannon and I
4 never, never had a harsh word in the six months that we had
5 our little flings, innocent, stupid little flings with each
6 other. And I want you to know, Judge, that I had a few
7 issues when I was young, when I was 13, that sort of made me
8 go a little bit coo coo. My 13-year-old girlfriend left me
9 because I was afraid to have sex with her and she ran off
10 with my best friend and it traumatized me and in my book I
11 tell about how I went into my sister's room at age 13 and
12 peeled back her panties and looked at her vagina. I was a
13 curious adolescent, but no molestation. There's no talk of
14 me molesting my sister. My sister writes me every day in
15 jail, not every day but every week.

16 I also want you to know, Judge, that the other
17 things I talk about in my book, the other things I did, it
18 was a period that I went through as a teenager and although
19 it involved peeping in windows, although it involved a couple
20 times where I actually crawled inside windows, I don't want
21 you to think that I'm the kind of guy that actually molested
22 children or actually put my hands on kids or touched them in
23 ways that made them uncomfortable.

24 As far as Mallory Monogan is concerned, I
25 think Mr. Fischer tried to bring out, that the truth of the

1 matter is that I hung around with Mallory and my niece and
2 the other girls. I had just gotten out of prison after ten
3 years and I was enjoying their company and I was proud of
4 myself because I didn't have any sexual feelings toward these
5 girls and I felt like I had gotten to a higher consciousness.
6 It was a really great feeling because it was so much better
7 than having any kind of thoughts or feelings. And one day
8 Mallory fell off her bicycle and I laughed at her and all the
9 girls turned against me and that turned into a tickling
10 incident. By the time some of these officers got done with
11 her that tickling incident turned into an incident where I
12 had sexually -- I was grabbing her by the vagina and throwing
13 her in the swimming pool. Judge, I can tell you right now if
14 that happened I could face you and I could say I molested
15 Miss Monogan. But the thing about me grabbing her vagina and
16 all that stuff, Judge, I'm sorry, none of that happened.

17 And I'll just read my statement quickly. My
18 greatest concern right now, Judge, is that you think I'm some
19 kind of animal that did something to Shannon when all Shannon
20 and I did was hugged and kissed and snuck around on her mom
21 for six months. Your Honor, I accepted responsibility
22 recently for having sexual contact with Linda's daughter in
23 Norwich in state court. In fact, I tried to plead guilty in
24 April 2007 in Norwich but in August 2007, District Attorney
25 McBride rejected the deal and decided to go to trial. I've

1 been truthful about what happened since my arrest in
2 March 2007. I cooperated with the presentence investigation
3 investigator and told him the whole story in June 2007. I
4 told him how I felt like a 14-year-old kid again with
5 Shannon, how we were smooching and doing all this stupid
6 stuff. I've always been honest and open about my particular
7 behavior, very candid, and as you know I even wrote a book in
8 1998 and kept a journal in 2002. I had a good job and in
9 2005 I bought a house in Norwich. I was living a quiet,
10 boring, normal life in Jersey. I'm a guy that goes to work,
11 grabs a couple of beers after work, I go home, I watch TV, I
12 look at my magazines from the store, generic girlie
13 magazines. That was pretty much my life. I go to the
14 laundry mat on the weekend, come up to my house, that was it,
15 Judge, then I met Linda's daughter Shannon. Our relationship
16 began behind her mother's back. Her mother was trying keys
17 to the house that I had just given her. I made keys for the
18 lady, the lady was on the other side of the door trying keys
19 when I initiated a series of hugs with Shannon. She
20 responded warmly to me and I kind of took it from there. We
21 went to Wal-Mart next -- and I'll keep this short -- to get a
22 receipt book to pay the rent. Shannon and I went down all
23 the different hallways in Wal-mart, got away from Linda. I
24 asked Shannon in one of the isles can I kiss her? That's how
25 it started. Our relationship began with hugs and kisses

1 behind her mom's back, Linda's daughter, and I lied to trick
2 and deceive her mom for six months. We conned her mom. We
3 fibbed. We made up stories. We did things while her mom was
4 napping, while her mom was cooking, while her mom was in the
5 bathroom. Sometimes her mom would go in the bathroom, I
6 would call Shannon over, give each other a hug and talk and
7 whisper, plan our next -- it was all stupid kid stuff. We
8 made her mom think we were just behaving like a step dad and
9 step daughter but we weren't. We made a fool of Linda
10 O'Connor from the very start. I made Linda think I was this
11 nice guy and Shannon made her mother think that I was like a
12 step daddy and it was just -- our relationship was just
13 stupid kid stuff. I mean, just like two 14-year-olds, two
14 13-year-olds, whatever you want to call it.

15 I don't know why Linda's daughter made up stories
16 about photos and cameras and her mom being involved with us.
17 I do know that the guy she called grandpa molested and
18 humiliated her because she told me this guy George Lang
19 molested and humiliated her and she told me that this guy
20 George Lang was probably the guy that took her virginity.
21 And, Judge, this poor kid was humiliated and molested by this
22 guy dozens and dozens of times and he basically did the same
23 thing I did. He took advantage of Linda O'Connor, made Linda
24 think he was interested in her so he could get to Shannon
25 because when Shannon turned about 11-years-old this old man

1 became sexually interested in this poor kid and he destroyed
2 her. He molested her and she told me he was cruel to her and
3 he told me the things he did to her and until she finally
4 gets to the bottom of who really did what, she's not going to
5 be able to heal herself. It's hard for her to face what
6 George Lang did to her. It's probably almost impossible.
7 I'm sure she blacked it out because of the depth of humility
8 that he instigated to the poor kid for God knows, a year and
9 a half, whatever it was.

10 Neither Linda nor myself are guilty of any of the
11 federal charges, Judge. There was no rent for sex. We never
12 had to exchange rent for sex. Shannon and I were having fun
13 from day one. Linda paid four months in advance. Three
14 months with FEMA money and a check from the Red Cross. By
15 that time, I mean, from week one Shannon and I were hugging
16 and kissing, getting it on and having our little trysts from
17 day one. There's no rent for sex. I don't know where
18 Mr. Lovric came up with that -- for publicity purposes -- I
19 don't know where the rent for sex came. I don't know where
20 these two black guys in a motel room -- if there's two child
21 molesters still running around in Johnson City, sir, you
22 might want to get on it at some point or perhaps with Shannon
23 telling another mistruth. There was no child porno, your
24 Honor. There was no camera. I've never taken a picture of
25 Shannon, even of her face. I never raised a camera in front

1 of Shannon. Shannon has never seen me with a camera, never,
2 not even once. It never even occurred to me to take a
3 picture of the young lady. It didn't even occur to me. If
4 it occurred to me, maybe I would have said, hey, let's do a
5 picture but to tell the truth, Judge, I never even thought
6 about it. The girls I looked at in magazines, I've seen
7 thousands of them. I never thought about it. Never occurred
8 to me.

9 As far as sex trafficking, I've never had to coerce
10 Shannon or get her to do something. She was a sexually
11 active young woman that wanted to experience things and I was
12 a guy that knew a little bit more than her and I showed her
13 some things. There was no pictures, never. I've never taken
14 a picture. I've never taken a picture, Judge. If you look
15 in my eyes, I've never taken a picture of a naked human being
16 in my life. All the stuff going on with college people and
17 cameras and taking photos and pictures and internet and
18 MySpace and all this stuff, I'm probably the only guy that's
19 never taken a picture in my life of a naked person. In my
20 life. There's nobody on this planet that can say Dean Sacco
21 ever took a picture of me while I was naked. Yes, I wanted
22 to do it like everybody else, I bragged about it. He played
23 films where I said I was going to do it. Yes, I wanted to do
24 it. No, I never did. Judge, I've never taken a picture of a
25 naked person in my life.

1 I'm deeply ashamed of myself, sir. I'm ashamed of
2 getting involved with an underage, troubled girl. A girl
3 that would lie to her mom and trick her mom and then send her
4 mom away to die in prison. And Mr. Lovric's to blame also
5 for not giving her a lie detector test or chance to tell the
6 truth. He never gave her a chance to tell the true story
7 about George Lang. Can anybody see that this poor kid is
8 putting -- that she's blacking that out because that's where
9 the real pain is. So you took the easy road, I'm the scape
10 goat, lock Sacco up because George Lang is dead. Poor kid
11 can't get him anyway, he died of cancer. He did some
12 horrible things to her. Until she gets to that with her
13 therapy and faces the truth, justice is not going to be
14 served her. Mr. Lovric used the poor girl. I can't imagine
15 what is going to happen when she realizes he doesn't really
16 care about her. If he did, he would have compelled her to
17 tell the truth in the very beginning. All he had to do was
18 ask her to tell her stories a couple of times in a row like
19 any police enforcement agency does to see if they matched.
20 If her stories didn't match, the girl might be troubled and
21 making stuff up. Then you get to the truth of the matter,
22 Mr. Lovric, then you served the correct justice. Yes, I had
23 an affair with the girl. No, none of the federal charges are
24 true. I'm sorry. Now, this kid can't have a clear conscious
25 when her mom dies in prison because you're having her like a

1 puppet lying. I'm ashamed of you, Mr. Lovric. You did not
2 serve the community this time, man.

3 I understand that there are intense therapy prisons
4 available in the federal system and I've talked to a lot of
5 guys that have gone to these therapy prisons and they've had
6 firsthand experiences with other inmates that have done
7 horrible things to children. Some of the guys that I talked
8 to said, man, after that therapy I'll never even look at an
9 underage girl again. It's very effective, very powerful
10 therapy. I ask that your Honor consider me as a legitimate
11 candidate for these prisons so that I can understand my own
12 psychological deficiency and how I ended up in a secret
13 relationship with a 13-year-old girl.

14 THE COURT: Okay. Mr. Fischer, do you know of
15 any reason why I shouldn't sentence Mr. Sacco now?

16 MR. FISCHER: No, your Honor.

17 THE COURT: Do you know of any reason why I
18 shouldn't sentence you, Mr. Sacco?

19 THE DEFENDANT: No, sir.

20 THE COURT: All right. The Court, of course,
21 has considered and calculated the sentencing guidelines as it
22 must. The guidelines are no longer mandatory but are a
23 factor that must be considered by the Court in the sentencing
24 process and the Court has also considered all the sentencing
25 factors set forth in 18 US Code Section 3553(a) and the

1 sentencing guidelines. The Court has adopted already the
2 factual content of the presentence report. The Court finds
3 that the total offense level in this case is a 43 because the
4 sentencing guidelines don't go above 43, even though your
5 level was calculated at a 48. Your criminal history category
6 is a four and your guideline range is life.

7 Now, leaving the guidelines for just a moment,
8 the Court has to consider what it knows about you, about your
9 background, about your inclinations, about your proclivities.
10 The Court has to consider what happened in this particular
11 case, which in the Court's mind was unbelievable. The Court
12 believes that you are a seriously sick predator. The Court
13 believes that you have to be placed somewhere where you can't
14 hurt children again or even attempt to do so and the Court is
15 going to consider that. The Court would like to think that
16 that might deter you but it doesn't believe that's the case.
17 Hopefully it will deter somebody else who might be
18 considering the same kind of horrific conduct that is
19 involved in this case. The Court doesn't see much hope for
20 rehabilitation but the Court is going to grant your request
21 and recommend that you receive treatment while you're in the
22 Bureau of Prisons.

23 THE DEFENDANT: Thank you, your Honor. I
24 think I can change.

25 THE COURT: So, upon your conviction by jury

1 trial of counts two, three, four, six, and seven of the
2 indictment, it's the judgment of this Court that you're
3 hereby committed to the custody of the Bureau of Prisons to
4 be imprisoned for a term of life. This sentence represents
5 terms of imprisonment of life on counts 2 and 3 and 30 years
6 on counts four and six and ten years on count seven, such
7 sentence to run currently with each ear.

8 The Court recommends you participate in the
9 Bureau of Prisons sex offender treatment program. While in
10 custody the Court orders you submit to a sex offender
11 evaluation made available by the Bureau of Prisons. If
12 you're determined to be in need of treatment you shall attend
13 and participate in sex offender treatment. If you violate
14 this order the Court will address this if and when you're
15 ever released from prison. Furthermore, if you are released
16 from prison, you shall be placed upon supervised release for
17 life on each count of conviction. All terms to be served
18 concurrently.

19 While on supervised release you shall not
20 commit another federal, state, or local crime and shall
21 comply with the standard conditions that have been adopted by
22 this Court and the following special conditions: You shall
23 participate in a mental health program that shall include
24 medical, psychological, or psychiatric evaluation and may
25 include outpatient and/or inpatient treatment. The program

1 shall be approved by the United States Probation Office. You
2 shall contribute to the cost of any evaluation, testing,
3 treatment and/or monitoring services rendered in an amount to
4 be determined by the probation officer based on your ability
5 to pay and availability of third-party payments.

6 You shall not have any direct contact with a
7 person under the age of 18 unless it's supervised by a person
8 approved by a probation officer. You shall not have indirect
9 contact with a person under the age of 18 through another
10 person or through a device, including telephone, computer,
11 radio or other means, unless it's supervised by a person
12 approved by the probation officer. You shall reasonably
13 avoid and remove yourself from situations in which you have
14 any other form of contact with a minor.

15 You shall not be in any area in which persons
16 under the age of 18 are likely to congregate, such as school
17 grounds, child care centers or playgrounds without the
18 permission of the probation officer.

19 You shall not have any direct or indirect
20 contact with any identified victims without the permission of
21 the probation officer.

22 You shall register with the state sex offender
23 registry agency in any state where you reside or are
24 employed, carry on a vocation or are a student.

25 You shall participate in a mental health

1 program which will include, but not be limited to,
2 participation in a treatment program for sexual disorders.
3 The program shall be approved by the United States Probation
4 Office.

5 Your supervised release may include
6 examinations using a polygraph, computerized voice stress
7 analyzer, or other similar devices to obtain information
8 necessary for supervision, case monitoring and treatment.
9 You shall answer the questions posed during the examination,
10 subject to your right to challenge in a court of law, the use
11 of such statements as violations of your Fifth Amendment
12 rights. In this case you shall be deemed to have not waived
13 your Fifth Amendment rights. The results of any examination
14 shall be disclosed to the US Probation Office and the Court
15 but shall not be further disclosed without the approval of
16 the Court.

17 You shall not use or possess any computer or
18 any other device with online capabilities at any location,
19 except at your place of employment, unless you participate in
20 the Computer Restriction and Monitoring Program. You shall
21 permit the United States Probation Office to conduct
22 periodic, unannounced, examinations of any computer equipment
23 you use or possess, limited to all hardware and software
24 related to online use, for example, use of the Worldwide Web,
25 e-mail, instant messaging and the like. These examinations

1 may include retrieval and copying of data related to online
2 use and the viewing of pictures and movies which may be
3 potential violations of the terms and conditions of
4 supervised release from the computer equipment, including any
5 internal or external peripherals, internet capability
6 devices, and data storage media. This computer equipment may
7 be removed to the probation office or office of his designee
8 for more thorough examination. The probation office may
9 install any hardware or software system that is needed to
10 monitor your computer use, subject to the limitations I just
11 set forth.

12 If your employment requires the use of a
13 computer, you may use a computer in connection with the
14 employment approved by the probation officer at your place of
15 employment, provided you notify your employer of the nature
16 of your conviction and fact that your conviction was
17 facilitated by the use of a computer. The probation office
18 must confirm your compliance with this notification
19 requirement.

20 In the event your treatment provider
21 determines that use of the computer or internet service is
22 contraindicated to your course of recovery, the Court, upon
23 considering such information, may prohibit the use of a
24 computer if the Court is convinced that such is the case
25 based upon the evidence.

1 You shall submit your person and any property,
2 house, residence, vehicle, papers, computer or other
3 electronic communications or data storage devices or media
4 and effects to search at any time, with or without a warrant,
5 by any federal probation officer from whom the probation
6 office has requested assistance with reasonable suspicion
7 concerning a violation of your conditions of supervised
8 release or unlawful conduct by you. Any items seized may be
9 removed to the probation office or office of their designee
10 for more thorough examination.

11 While in treatment, and for remainder of the
12 term of treatment, and following completion of treatment you
13 shall not view, possess, own, subscribe to or purchase any
14 material, including pictures, videotapes, films, magazines,
15 books, telephone services, electronic media, computer
16 programs or computer services that depict sexually explicit
17 conduct as defined in 18 US Code Section 2256(2).

18 You shall also pay to the Clerk of the Court a
19 special assessment of five hundred dollars which is due
20 immediately. The Court finds based on your financial
21 resources, projected earnings and other income you don't have
22 the ability to pay a fine and does not order a fine.

23 Both you and the government have the right to
24 appeal this sentence under certain limited circumstances and
25 you shall consult with your attorney about an appeal. You

1 shall file an appeal within ten days of the date of this
2 sentence.

3 Mr. Lovric, do you have a motion to dismiss?

4 MR. LOVRIC: The forfeiture count, yes.

5 THE COURT: The forfeiture count, Court orders
6 it dismissed and the Court orders you remanded to the custody
7 of Bureau of Prisons.

8 Court stands adjourned.

9 (Court stands adjourned)

C E R T I F I C A T I O N

I, VICKY A. THELEMAN, RPR, CRR, United States Court Reporter in and for the United States District Court, Northern District of New York, do hereby certify that I attended at the time and place set forth in the heading hereof; that I did make a stenographic record of the proceedings had in this matter and cause the same to be transcribed; that the foregoing is a true and correct copy of the same and the whole thereof.

VICKY A. THELEMAN, RPR, CRR
United States Court Reporter
US District Court - NDNY

Dated: December 11, 2008.